

GALLAGHER & KENNEDY

P.A.
LAW OFFICES

DAVID P. KIMBALL III
DIRECT DIAL: (602) 530-8221
E-MAIL: DPK@GKNET.COM

2575 EAST CAMELBACK ROAD
PHOENIX, ARIZONA 85016-9225
PHONE: (602) 530-8000
FAX: (602) 530-8500
WWW.GKNET.COM

August 19, 2009

VIA US MAIL

Re: Potential Liability to the Roosevelt Irrigation District

Dear:

The purpose of this letter is to notify you that your organization has been identified as a potentially responsible party for groundwater contamination that has impacted wells owned and operated by the Roosevelt Irrigation District ("RID") and to invite you and your representatives to a meeting to be held at the Mountain Preserve Reception Center; 1431 East Dunlap Avenue; Phoenix, Arizona 85020-3026. The meeting is to be held on the 16th of September, 2009 at 9:00 a.m. to discuss the remedial alternatives and early response action being formulated and evaluated by RID and the parameters of a creative potential settlement between your organization and other potentially responsible parties with RID for contamination of its groundwater wells.

This office represents RID. RID is a political subdivision of the State of Arizona. RID is organized and operated under Article XIII of the Arizona Constitution and Title 48, Chapter 19 of the Arizona Revised Statutes.

RID owns and operates approximately 100 groundwater wells in the western portion of Maricopa County. The wells are used to supply water to public and private entities and individuals for industrial, agricultural and residential uses. The groundwater pumped by over 20 of these wells is contaminated with pollutants including, but not limited to, trichloroethene ("TCE"); 1,1,1-trichloroethane ("TCA"); methyl tertiary butyl ether ("MTBE"); and tetrachloroethene ("PCE"). The contamination is associated with three regional sites which have been identified under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. §§ 9601 - 9675) ("CERCLA") or the Arizona's Water Quality Assurance Revolving Fund program (A.R.S. §§ 49-281 - 49-298) ("WQARF"). The three sites are described below:

Motorola 52nd Street Superfund Site ("M-52")

M-52 is listed on the United States Environmental Protection Agency's ("EPA's") National Priorities List (40 C.F.R. Pt. 300, App. B). M-52 has been subdivided into three operable units ("OUs"). The approximate boundaries of OU1 are Palm Lane to the north, 52nd Street to the east, Roosevelt Street to the south and 44th Street to the west. The approximate boundaries of OU2 are Roosevelt Street to the north, 44th Street to the east, Buckeye Road to the south and 18th Street to the west. The approximate boundaries of OU3 are McDowell Road to the north, 20th Street to the east, Buckeye Road to the south and 7th Avenue to the west.

West Van Buren Area WQARF Site

The West Van Buren Area WQARF Site ("WVBA") is listed on the Arizona Department of Environmental Quality's ("ADEQ's") WQARF Registry established under A.R.S. § 49-287.01(D). The approximate boundaries of WVBA are McDowell Road to the north, 7th Avenue to the east, Lower Buckeye Road to the south and 75th Avenue to the west.

West Central Phoenix WQARF Site

The West Central Phoenix WQARF Site ("WCP") also is listed on ADEQ's WQARF Registry. WCP is bounded approximately by Campbell Road to the north, 19th Avenue to the east, McDowell Road to the south and 43rd Avenue to the west.

The groundwater underlying each of these three sites is moving in a south-westerly or westerly direction and is hydrologically connected to the groundwater pumped by RID. Your organization, or a predecessor-in-interest to your organization, has been identified in records maintained by either EPA or ADEQ, or other property records, as having owned and/or operated one or more facilities within the boundaries of the three sites. More importantly, releases or threatened releases of hazardous substances have been documented at the facilities. As a result, you are potentially jointly and severally liable for all recoverable response costs and damages incurred to date and to be incurred in the future by RID under the provisions of Section 107(a) of CERCLA, 42 U.S.C. § 9607(a) and other common law causes of action for such releases or threatened releases.

If necessary, RID is prepared to file suit to recover those costs and damages under the provisions of CERCLA, Arizona state law and federal common law. A copy of the draft Complaint is attached to this letter.

If not addressed by RID and supported by the potentially responsible parties, EPA and/or ADEQ will require the construction of multiple groundwater "pump and treat" systems to remediate the groundwater contamination at these three sites. Such "pump and treat" systems have already been installed for some operable units at M-52. These individually designed and separately operated systems are not only expensive to construct, they will require many decades of costs to operate and maintain and often prove inefficient, ineffective, and fail to provide "final" relief from liability. RID intends to avoid such problems.

RID has assembled a technical team which is investigating and evaluating remedial alternatives to provide long-term protection and unrestricted use of its wells and water supply,

August 19, 2009

Page 3

including the implementation of an early response action to protect RID's wells that have not yet been impacted and to mitigate impacts to the contaminated RID wells. The remedial alternatives under consideration will utilize RID's impacted wells and existing pipelines and easements to design and operate a single, regional "pump and treat" system that could effectively address the groundwater contamination at these three sites that currently impacts and/or threatens to impact RID wells, thereby saving significant costs compared to the costs for multiple new "pump and treat" systems.

More significantly, if the necessary funding can be obtained for well field integration, the required water treatment facility(ies), and a separate delivery system for the treated water, RID is prepared to enter into consent decrees with settling parties that could eliminate liability for the very significant future long-term "pump and treat" operation and maintenance costs. Participation in the consent decree by ADEQ also could provide protection from any contribution claims from any non-settling potentially responsible party under Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2); and A.R.S. § 49-292(C).

The purpose of the meeting is to discuss RID's response options, cost estimates and creative potential settlement alternative that may avoid litigation, significant response costs, and provide liability "finality" for the settling potentially responsible parties. We hope you and your representatives are able to attend the September meeting. Please RSVP via email to stuart.kimball@gknet.com.

Very truly yours,

GALLAGHER & KENNEDY, P.A.

By:

David P. Kimball, III

Enclosure